Summary

COVID-19: Impact on Employment and Labor

Updated May 13, 2020

Key Takeaways

Unprecedented challenges due to COVID-19 are causing economic ripple effects nationwide.

Temporary suspension of occupational licensing laws in emergency situations is a common approach states take to help manage short-term crises.

Related Topic: Labor and Employment

The sudden emergence of the COVID-19 pandemic is dealing a severe blow to state economies, businesses and workers. First and foremost, states are strengthening their health care capacity in the event that demand for medical services surge. Ensuring there are enough licensed health care professionals is a key component in this preparation.

States are also restricting access to in-dining restaurants, theaters, concert halls, some retail stores and other non-essential businesses where large groups of people risk coming into close contact with one another. Additionally, public health officials and experts have warned Americans to stay home as much as possible and avoid doing anything that requires close contact with others. Many other businesses have voluntarily closed to protect their employees and the public as a whole. Perhaps the most visible closure has been the nearly universal shutdown of the professional sports industry. Those exposed to the virus are being advised to self-quarantine for at least 14 days presenting financial challenges for workers without paid sick leave.

These unprecedented challenges are having economic ripple effects across the country as thousands of Americans unexpectedly find themsleves out of work with the potential for significant increases in unemployment. States are taking action to address the employment concerns facing Americans and to protect those who are no longer able to work. Some immediate issues on the minds of policymakers include expanding paid leave for workers, preparing state unemployment insurance benefit programs for surges in demand and helping businesses transition to full-time teleworking.

Federal Response

Federal legislation addressing unemployment insurance benefits, paid leave and economic stimulus is currently making its way through Congress. NCSL is watching this legislation closely and advocating for state legislatures around the country. Updates on federal action and its impact on states will be made as they happen.

Occupational Licensing During Public Emergencies

COVID-19 presents an unprecedented crisis for states, requiring swift action on many issues, including the process for licensing essential workers. Temporary suspension of occupational licensing laws in emergency situations is a common approach states take to help manage short-term crises. States have experience in adopting emergency licensing processes, most often in response to natural disasters and their aftermath. Typically, states will lift licensing restrictions on aid workers, including those providing health care, infrastructure and other services critical to disaster recovery. To respond to COVID-19, states are also exploring the temporary suspension of licensure requirements for volunteers and aid workers. See NCSL's Occupational Licensing During Public Emergencies webpage for more details.

Paid Sick Leave

COVID-19 is causing very high numbers of workers to take sick leave. Many workers are not paid when they get sick. Currently, 12 states and Washington D.C. require employers to provide paid sick leave benefits. NCSL's Paid Sick Leave webpage provides details on each state's program.

Unemployment Insurance Benefits

The Federal-State Unemployment Insurance Program provides temporary unemployment benefits to eligible unemployed workers. As states work to slow the spread of COVID-19, thousands of workers are finding themselves unemployed leading to a surge in applications for unemployment benefits. States are responding to this employment crisis including expediting the application process for unemployment insurance benefits and expanding eligibility to those under quarantine.

Defining Essential Businesses and Workers

While the federal government has recommended that all Americans stay home to slow the spread of COVID-19, it is up to states and local governments to enact these recommendations. So far, 41 states have issued stay-at-home orders forcing the closure of all non-essential business properties. What constitutes an "essential" business is complex and varies from state to state. The U.S. Department of Homeland Security has guidance for states on critical infrasture workers covering areas like healthcare services, public utilies, food services, public transportation and financial services.

The federal guidance serves as a basic framework for most state policies. From there, states tailor their definition of essential workers to meet their own unique needs as well as their mechanisms for enforcing the orders. These definitions often include numerous exemptions and can change from day-to-day. The National Governor's Association has compiled a thorough breakdown of how each state is defining essential workers.

Teleworking

The COVID-19 outbreak is rapidly changing the workplace. As the race to containment continues, millions of Americans are moving their work spaces to their homes as states ask employers to offer flexible work arrangements, such as teleworking, and develop plans to ensure continuity in government.

Frequently Asked Questions

How does the paid sick leave and FMLA apply to state legislative staff?

On Wednesday, April 1st the U.S. Department of Labor just issued guidance on the FFCRA. Here is the link to the DOL rule, published in the Federal Registrar April 1. Below is additional information:

DOL issued new action regarding how American workers and employers will benefit from the protections and relief offered by the Emergency Paid Sick Leave and Emergency Family and Medical Leave Act (FFCRA). The Department's Wage and Hour Division finalized a temporary rule that issued regulations clarifying what entities are mandated to abide by the new paid sick and FMLA provisions. Specifically, the rule establishes and further defines "public agency" as having the same definition in section 203(x) of the Fair Labor Standards Act (FLSA). Those public agencies include the Government of the United States; the government of a State or political subdivision of a State; or an agency of the United States (including the United States Postal Service and Postal Regulatory Commission), a State, or a political subdivision of a State; or any interstate governmental agency." In addition to providing clarification on what defines a "public agency", the rule also defines coverage – specifically, "[a]ll covered public agencies must comply with both the EPSLA and the EFMLEA regardless of the number of employees they employ, although such employers may exclude employees who are health care providers or emergency responders as described in § 826.30(c).

What employers qualify under the paid sick leave provisions in the Families First Coronavirus Response Act?

FFCRA requires covered employers to provide eligible employees up to two weeks of paid sick leave at full pay, up to a specified cap, when the employee is unable to work because the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19. The act also provides up to two weeks of paid sick leave at partial pay, up to a specified cap, when an employee is unable to work because of a need to care for an individual subject to a federal, state or local quarantine order related to COVID-19. The FFCRA covers private employers with fewer than 500 employees and certain public employers. Small employers with fewer than 50 employees may qualify for an exemption from the requirement to provide paid leave due to school, place of care, or childcare provider closings or unavailability, if the leave payments would jeopardize the viability of their business as a going concern.

How are states planning to pay for reimbursements to businesses for paid sick leave and FMLA?

They are not. State-paid sick leave laws are simply mandates for employers to provide these benefits to employees. Businesses are not reimbursed for providing paid sick leave. FFCRA will reimburse private employers that have fewer than 500 employees with tax credits for the cost of providing employees with paid leave taken related to COVID-19. Most state paid family and medical leave/temporary disability insurance programs are entirely employer funded. The states that do include an employer-funded component do not reimburse employers for their contributions.

How do the new unemployment insurance policies and guidance apply to seasonal, gig, and undocumented workers?

The CARES Act expands unemployment insurance from three to four months, and provides temporary unemployment compensation of $600 per week, which is in addition to and the same time as regular state and federal UI benefits. The benefits are extended to part-time, self-employed and gig economy workers. The Pandemic Unemployment Assistance (PUA) provides emergency UI to employees who do not qualify for the regular state UI. Up to 39 weeks of PUA is available immediately to workers who have lost work due to COVID-19. Workers who can telework or are receiving paid sick leave are not eligible for PUA.

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